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ABSTRACT

The purpose of this handbook is to inform American Indians about their basic rights under Federal law both on and off reservations. There is a discussion of the freedoms of religion, speech, press, assembly, and petition. The next section deals with equal treatment, unlawful arrest and detention, unlawful searches and seizures, and what to do when questioned or when rights have been violated. The section on fair treatment by the courts discusses the following: the right to counsel: arraignment, notice of charges, and bail: what happens before and during a trial: sentencing and appeal: and rights of children and teenagers. There are sections on Federal grand juries, the custody of children, civil and administrative due process, and the right to vote. The section on equal employment opportunities covers government and private employment, Title VI and other Federal laws, tribal agencies, private companies with Federal contracts, and Indian job preference. The section on educational opportunities describes the programs available for Indians. There are sections on Indian student rights and on rights to fair housing, equal credit, and use of public facilities and accommodations. The next section discusses the taking of private property by eminent domain. There are instructions on how and where to file complaints followed by a description of what constitutes discrimination. There is also a list (by states) of legal service programs and list of jurisdictions covered. (CM)

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American Indian Civil Rights Handbook

Clearinghouse Publication No. 35
Second Edition

United States Commission on Civil Rights

September 1980

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- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, handicap, or national origin, or by reason of fraudulent practices;
- Study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;
- Appraise Federal laws and policies with respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;
- Serve as a national clearinghouse for information in respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin;
- Submit reports, findings, and recommendations to the President and Congress.

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Prefatory Note

In 1972 the U.S. Commission on Civil Rights published the first edition of the *American Indian Civil Rights Handbook.* Since that time a number of changes in the law have occurred and this edition reflects the changes. The purpose of the handbook is to inform American Indians about the basic rights under Federal law that they have both on and off reservations.

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Introduction

The phrase "civil rights" as commonly used covers a broad array of "rights and privileges" that people believe belong to them as citizens or residents of the United States. This public or popular view of "civil rights" is not, however, always legally accurate. In the American legal system the United States Constitution (and the laws passed under its authority) is the source determining the nature of civil rights. Not everything that seems unfair, or even unjust, is a violation of rights. It is not always clear what your rights really are in any particular situation.

The Constitution does not contain a definitive listing of rights. In fact, it is impossible to list rights in such a way. What is contained in the Constitution is a series of general and specific regulations for the conduct of Federal, State, and local governments. Congress and the Federal courts interpret these constitutional provisions and apply them to the different factual situations. Indians, like others, are entitled to these constitutional protections in regard to actions by Federal, State, and local governments. Most of the constitutional protections of individual rights do not, however, apply to the operations of tribal governments. Neither Indians nor non-Indians have the same rights with respect to tribal governments that they both have with respect to Federal, State, and local governments. Most of the rights that exist with respect to tribal governments come from either tribal constitutions or the Indian Civil Rights Act of 1968.

Many have felt that Congress should not have regulated Indian tribes by the Indian Civil Rights Act or similar legislation. These people argue that such regulation infringes on tribal sovereignty and imposes the values of United States culture on Indian cultures. Congress, however, only accepted this point of view to a very limited extent and did impose regulations—the Indian Civil Rights Act—on the conduct of the tribes. Congress is viewed by the Supreme Court of the United States as having the power to impose such regulation on Indian tribes. As noted below, the rights guaranteed to individuals by the Indian Civil Rights Act are similar, but not identical, to the rights provided by the Bill of Rights and the 14th amendment of the United States Constitution.

This handbook explains basic rights in the Indian context. Because very little interpretative tribal law exists that indicates how the rights contained in the Indian Civil Rights Act specifically apply to actions by tribal governments, most of the text concerns rights in connection

with actions by Federal, State, and local governments. Where it is clear that Congress intended "rights" to be different in the tribal setting, this fact is noted in the text. In all other areas, the application of these rights in a tribal setting will apparently depend on both the current understanding of "rights" in the American justice system and the application of such rights in the historical and cultural context of each individual tribe.

The Indian Civil Rights Act

As noted above, the U.S. Constitution with its Bill of Rights protects people by regulating what Federal, State, and local governments can do. These constitutional rights do not limit the actions of tribal government, because Indian tribes derive their governing authority from inherent sovereignty rather than the Constitution. Many tribes, however, have provisions in their own constitutions similar to the U.S. Constitution. In addition, the 1968 Indian Civil Rights Act, patterned after the Bill of Rights and the 14th amendment, does apply to Indian tribal governments.

The Indian Civil Rights Act says that no Indian tribe shall:

> (1) make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the rights of the people peaceably to assemble and to petition for a redress of grievances;
>
> (2) violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;
>
> (3) subject any person for the same offense to be twice put in jeopardy;
>
> (4) compel any person in any criminal case to be a witness against himself;
>
> (5) take any private property for a public use without just compensation;
>
> (6) deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense;
>
> (7) require excessive bail, impose excessive fines, inflict cruel

and unusual punishments, and in no event impose for conviction of any offense any penalty or punishment greater than imprisonment for a term of 6 months or a fine of $500, or both;

(8) deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;

(9) pass any bill of attainder of ex post facto law; or

(10) deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

There are several important differences between the Indian Civil Rights Act and the U.S. Constitution. Rather than incorporate all the provisions of the Bill of Rights, Congress selectively incorporated, and in some cases modified, the safeguards of the Bill of Rights in order to protect the sovereignty of tribal governments from undue interference. For example, tribes cannot interfere with someone's religion but they may have an official religion. Some tribal governments, such as the Pueblos, have religious ties.

Several differences concern criminal prosecutions. In tribal court you do not have a right to a free lawyer, unlike cases in State and Federal court that might lead to a prison sentence. The punishment for a crime cannot be more than 6 months in jail and a $500 fine. The criminal grand jury system does not apply to tribes. The U.S. Supreme Court has ruled in *Oliphant* v. *Suquamish Indian Tribe* that tribal courts have no jurisdiction to try non-Indians in criminal cases.

Civil trials are not mentioned in the act. You are not guaranteed a jury trial when you sue for money damages in tribal court. Constitutional provisions about the right of the people to bear arms and about the quartering of soldiers are omitted.

The Indian Civil Rights Act covers all tribes, bands, pueblos, and groups of Indians under the Federal Government that are recognized as having powers of self-government. It is unclear whether the law protects people on State reservations where the tribes have no formal trust relationship with the Federal Government.

The law makes all tribal officials responsible in much the same way that the Federal Constitution gives responsibilities to State and Federal officials. It covers all tribal officials, the tribal council and its chairperson; tribal judges, court clerks, etc.; tribal police; and officials of special tribal agencies such as election boards, zoning boards, and housing authorities.

All Indian courts are covered, whether they are traditional or

nontraditional, and whether they are tribal courts (organized under the tribe) or Courts of Indian Offenses (organized under the Bureau of Indian Affairs).

Santa Clara Pueblo v. Martinez

In most situations, the actions of tribal courts cannot be overturned by Federal courts. In *Santa Clara Pueblo* v. *Martinez,* the U.S. Supreme Court said that only when a person is held in custody where a writ of *habeas corpus* might apply could a Federal court tell the tribal court what to do. In other situations, it is up to the tribal government to decide what to do about violations of the Indian Civil Rights Act. In other words, the tribes themselves must decide how to apply and enforce these rights.

In deciding *Martinez,* the United States Supreme Court said that tribes are immune from lawsuits in Federal courts based on the Indian Civil Rights Act. The Court refused to subject the tribes to the expense and disruption that might come from having to answer for every governmental action in Federal court. The *Martinez* case has made it clear that tribal courts will decide many civil rights disputes arising under the Indian Civil Rights Act. Federal courts cannot interfere with tribal courts regarding internal civil rights matters unless Congress specifically says they can.

Freedom of Belief and Expression

Freedom of Religion

The first amendment to the Constitution guarantees that "Congress shall make no law respecting the establishment of religion. . . ." That means that Federal, State, or local governments cannot establish and maintain a church or promote one religion over another. For example, they cannot give money to churches and church schools, pass laws favoring one church over another, or require prayers in public schools. The first amendment provision that forbids the establishment of religion is sometimes called the "separation of church and state."

The guarantee of separation of church and state, however, does not apply to tribal governments. In some tribes, such as some of the Pueblos, tribal officials have ties to the traditional religious leaders. This practice is not forbidden by the Indian Civil Rights Act.

The first amendment also provides that Congress cannot "prohibit the free exercise" of religion. The Indian Civil Rights Act also contains this provision, as religious freedom was a major goal of the act. Everyone has the freedom to believe any religion he or she chooses or none at all. This freedom applies to all faiths. Members of Indian religious groups, such as the Native American Church, are entitled to the same protections as members of any other religious group.

Religious practices, however, are different than beliefs, and the right to practice a religion is not absolute. The government can regulate religious activity and even prohibit some religious practices in order to protect the health, safety, morality, and rights of other persons. For example, the government has banned polygamy (having more than one wife), which was once an important practice of the Mormon religion.

Generally, laws about religious activity should be the least restrictive possible. For example, the government cannot require military combat service of persons whose religious beliefs are against such practices. However, the government can require these persons to perform substitute civilian or community service.

In some cases you can do something for religious purposes that would otherwise be illegal. Although all States have laws against the use and possession of drugs, use of peyote in religious ceremonies is permitted in a number of States. Federal drug laws specifically allow the use of peyote during religious ceremonies of the Native American Church. The U.S. Supreme Court, however, has not decided whether the religious use of peyote is protected by the U.S. Constitution.

Therefore, in many States possession of peyote, even for religious purposes, is still outlawed and may result in a fine or jail sentence.

Freedom of religion applies to prisoners as well as anyone else. Recently, the right of Indian prisoners to engage in traditional religious practices and consult spiritual advisers has been recognized, just as it has for prisoners of other faiths. Some prisons with many Indian inmates allow medicine men to engage in such religious practices as sweatlodge and pipe ceremonies and to provide religious counseling.

The American Religious Freedom Act of 1978 was passed to protect Indian religious beliefs and practices. Federal agencies have sometimes denied Indians access to sacred places or interfered with religious practices or customs while enforcing Federal rules regarding land use or wildlife management. The President has set up a task force of representatives from various Federal agencies to evaluate the effect of Federal policies on Indian religious practices. It reported its findings to the President in August 1979. He will recommend needed changes in laws or procedures to Congress. It is hoped this process will ensure that government policies and practices take into account and do not unnecessarily interfere with Indian religious practices.

Freedoms of Speech, Press, Assembly, and Petition

The first amendment to the U.S. Constitution also says that the Federal Government cannot pass any law "abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." This amendment also applies to the States. The Indian Civil Rights Act contains the same language regarding tribal governments.

All persons have the right to believe what they want and to express their opinions openly and freely. The right to influence others through discussions and speeches and in print is a basic freedom. People must be able to listen to the ideas of others and to express their own opinions freely in order to make political decisions.

All citizens have the right to criticize any government official, no matter how important that official may be, and to support peaceful changes in how government is run.

Freedom of the press protects newspapers, magazines, books, leaflets, newsletters—everything that is printed—as well as movies, radio, and television. Freedom of speech and press is not limited to politics. It includes discussion of all issues. Nor is such freedom limited to opinions that are popular or that most people consider to be true or acceptable. The primary purpose of the first amendment is to protect beliefs that are unpopular, including those that could cause strong disagreement and dispute.

The U.S. Supreme Court has stated: "A function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger."

However, freedom of speech can be regulated to preserve the peace and protect the public. Thus it is illegal to yell "Fire" in a crowded theatre when there is no fire because of the potential danger should the audience rush to the exits.

The use of streets and other public places can be subject to reasonable limits so that those using them do not interrupt traffic, make too much noise, or in other ways interfere with the rights of others. Some forms of expression—for example, obscenity—are not protected. Nor does a person have the right to use speech to cause violence or persuade others to do so.

The right of assembly includes the right to meet with other people or to join organizations for political, religious, social, or any other lawful purpose. The privacy of one's association is protected by this provision; except under extraordinary circumstances, the Government may not make a person tell what organizations he or she belongs to or force an organization to reveal the names of its members. Nor can the Government deprive a person of a privilege, such as holding a job, because of his or her associations. This means that membership in an organization advocating Indian rights, such as the National Indian Youth Council, the National Congress of American Indians, or the American Indian Movement, cannot be used against you by the Government to deny you services, such as a job or housing.

Like speech, the right of assembly and protest can be regulated to preserve the peace and protect the public. Thus parades, marches, picketing, and rallies may be regulated as to time, place, and manner so long as the regulations are reasonable, are applied without discrimination, and are limited to what is necessary to protect the public welfare.

Fair Treatment by the Police

Many constitutional protections concern police investigations and the prosecution in court of persons accused of crimes. There is great potential for abuse and loss of freedom in many police activities, and serious consequences result from prosecution in court and conviction of a crime. The following sections will describe your rights in connection with actions by the police and your rights if you are charged with a crime in Federal, State, or tribal court.

Police and Prison Abuse

Insulting and threatening language and physical violence by police are among the worst kinds of official misconduct. Complaints received by the U.S. Commission on Civil Rights indicate that Indian people, in common with minority groups, often complain of such improper conduct.

The police must enforce the law, but they may use only the minimum or least amount of force necessary to make an arrest or carry out their duty. They may not inflict physical injury or pain in order to punish or "teach you a lesson." The job of the police is to arrest those who appear to violate the law and bring them to court; it is the court's job to determine whether a person is guilty or innocent and impose punishment.

Should the police arrest you, they may not use "excessive or unreasonable" force to carry out the arrest. State laws concerning the use of weapons by police when making an arrest differ widely. As a general rule, the police may not use guns or "deadly force" to arrest a person accused of a minor crime or misdemeanor. The major difference among various State laws is whether or not the police may use deadly force to arrest a nonviolent felony suspect—that is, a person who did not endanger human life in committing a serious crime and who does not seem likely to be violent if he or she is not immediately arrested.

Jail or prison officials also may not abuse prisoners. Failure to protect a prisoner from harm by other prisoners or failure to provide needed medical care are both violations of a prisoner's rights. Prisoners may be punished for violating prison rules, but the punishment must not be excessive or cruel. Prison and jail officials must provide prisoners with decent sanitary facilities, adequate light, heat, food, clothing, and bedding, and the opportunity for regular physical exercise.

Equal Treatment

One of the most important constitutional protections is the 14th amendment, which provides that no State shall "deny to any person within its jurisdiction the equal protection of the laws." The fifth amendment applies a similar limitation to the Federal Government. Tribal governments are covered by the Indian Civil Rights Act. The "equal protection" clause means that law enforcement officials in carrying out their duties cannot legally treat Indian people differently than non-Indians simply because they are Indians.

Despite what the 14th amendment says, Indian people have often complained of receiving harsher treatment from the police and the courts than non-Indians do. Such complaints are often from border towns.

The police may not arrest Indians for a crime such as drunkenness and ignore the same crime when committed by non-Indians. The courts may not set higher bail or impose longer sentences for Indians than for other people when the circumstances are similar.

Unlawful Arrest and Detention

As a general rule, you have the right to go about your business free of any interference by the police. A police officer cannot arrest you and deprive you of your freedom unless the officer has "probable cause" to believe that you have committed a crime. "Probable cause" is a legal phrase that has very technical meanings; however, it basically means that facts and circumstances known to the police connect you to a crime. Probable cause for your arrest generally exists if a police officer actually sees you committing an offense, has information that you committed an offense from a believable witness, or finds evidence linking you to an offense in plain view or in the course of a lawful search.

A police officer may not stop and hold you merely on the basis of a hunch or suspicion. In limited circumstances, if an officer has reason to think you may be involved in some criminal activity taking place at the moment or about to take place, he may stop you briefly while he looks into the situation and may pat down the outside of your clothing to make sure that you are not carrying a weapon.

Never try to resist arrest, even if you believe the arrest is illegal. You might be injured or charged with resisting arrest—another crime. Instead, challenge your arrest later in court.

Unlawful Searches and Seizures

In a free society, all citizens are protected against unreasonable searches and scrutiny of their persons, houses, personal belongings,

and papers. The fourth amendment, which was designed to safeguard citizens from governmental intrusion, states: "The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated. . . ." Search warrants must be "based on probable cause, supported by oath or affirmation," and describe "the place to be searched, and the persons or things to be seized."

Ordinarily, the police may not search your house or other property unless they have a warrant. A warrant is a paper issued by a judge allowing the police to conduct a search and stating exactly where they may search and what they may take. A judge may issue a warrant only after the police state under oath enough facts to indicate that a crime has been committed and that evidence of the crime is located in the place the police want to search.

Sometimes the police can conduct a search without a warrant. At the time you are arrested, the police may search, without a warrant, your person and the area within your reach from which you could obtain a weapon or destroy evidence. Often the police may search an automobile without a warrant if they have "probable cause" to believe that evidence is within it. If the police are chasing a fleeing and dangerous person (called "hot pursuit"), they may search for that person without a warrant.

Finally, the police may search you, your automobile, house, or belongings without a warrant if they ask you and you agree. The police do not have to tell you that you can refuse their request to search without a warrant; it is up to you to know your rights and decide what to do on your own. Of course, you can talk to a lawyer. If the police refuse to listen to you, it is unwise to try physically to prevent them from making their search. You should raise your objections to the search later in court.

In sum, the police may search you, your car, or your home only under the strict conditions of the fourth amendment.

When You Are Questioned

The FBI or local police agencies often try to talk to people in order to get information for an investigation. They may ask you what you know about a crime or about people they are looking for who are witnesses or suspects. For example, following the 1975 killings of an Indian man and two FBI agents on the Pine Ridge Reservation, more than 100 FBI agents went through the reservation interviewing residents about the killings.

If the FBI or local police attempt to talk to you or question you, your rights are simple: you do not have to talk to the FBI or the police under any circumstances if you do not want to. It is your right to say,

"I'm sorry, but I do not wish to speak with you." Many experienced lawyers tell people contacted by the FBI or police politely but firmly to refuse to talk to them, at least without a lawyer present, because anything a person says could later be used against him or her in court.

Although the law lets people refuse to talk to the FBI or police, it is a Federal crime to lie or make false statements to the FBI or other Federal agents. Don't mislead or deceive an FBI agent or police officer of any kind who is trying to question you. For example, do not claim that you do not know anything about the matters they are interested in when in fact you do. The law only protects you when you refuse to talk at all.

If you have been arrested, you have special rights when you are questioned by the police. Before the police try to question you, they must advise you of your rights. They must tell you that you have the right to remain silent; that anything you say can be used against you in court; that you have a right to talk to a lawyer for advice before being questioned; and that if you cannot afford a lawyer, you may have one at government expense before any questioning.

If you are arrested by tribal police, under the Indian Civil Rights Act the tribe does not have to provide a free lawyer if you cannot afford to hire one. The act only requires tribes to allow you to hire one if you want to and can do so.

After you have been advised of your rights, you may decide whether to go ahead and make a statement or answer questions. However, if you make a statement and the police want to use it against you in court, they must show that they advised you of your rights, that you understood your rights, and that you decided not to use your rights and made a statement of your own free will.

If the police get a statement from you in violation of your rights, they cannot use it in court against you. This protection is known as the "exclusionary rule" and is discussed in detail in the next section.

If Your Rights Are Violated

In order for rights to have any meaning, there must be a way to enforce them. In many cases, enforcement of civil rights is difficult if not impossible without the assistance of a lawyer. The following suggestions of ways to obtain relief for rights violations are offered with the understanding that the value of any or all varies considerably from place to place.

Some States and cities have human rights commissions or antidiscrimination agencies with authority to look into complaints of police misconduct. These agencies differ as to what they can do and how they do it, so you should become familiar with your local agency. Also, many police departments have special committees or boards set

up to hear charges of police misconduct. These internal boards are often criticized as too weak, but if your police department has one, you should find out how it works.

If you are charged with a crime in court, and you believe the police search that produced the evidence against you was illegal, you may ask the judge for a hearing to decide whether you are right. You may also ask for a hearing if you believe the police obtained a statement from you illegally. If the judge decides you are right, the "exclusionary rule" will be applied, and the use in court of any evidence or statement obtained illegally will be forbidden.

It is a crime for the police to violate anyone's civil rights, and the U.S. Attorney General or the U.S. attorney for the State in which you reside may file criminal charges in Federal court against police officers who violate your civil rights. Write to the U.S. attorney for your State and to the Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, Washington, D.C., 20530. You should give them your name and address, a description of the incident in which you believe your rights were violated, the date and place of the incident, and the name(s) and address(es) of anyone who could provide information or support for your complaint.

Finally, you can sue on your own in State or Federal court and ask for money damages to make up for violations of your rights. Whether you can sue for money damages in a tribal court depends on the law of the individual tribe.

You can also ask for a court order, requiring the police to stop violating your rights in the future. Bringing a lawsuit is a complicated and time-consuming process. You will need the help of a lawyer. For suggestions on where you can look for a lawyer to handle your case, see the directory at the end of this pamphlet.

Fair Treatment by the Courts

To be charged in court with a crime is one of the most serious things that could ever happen to you. If convicted, you would have a criminal record that could hurt you in getting a job. You could go to jail. In very serious cases, you could even get the death penalty.

Because a criminal conviction is so serious, the Constitution provides a number of safeguards that are designed, as much as possible, to make sure that no innocent person is found guilty of a crime. Many of these protections stem from the fifth amendment to the United States Constitution, which says that: "No person shall be. . .deprived of life, liberty, or property, without due process of law."

The following is a brief description of what happens in a criminal case and the rights you have if you are charged with a crime.

Right to Counsel

The U.S. Supreme Court has ruled that any person charged with a crime that could mean a prison sentence has the right to counsel—in other words, to have a lawyer. A lawyer must be provided to you at government expense in State or Federal trials if you are too poor to hire one yourself. The right to counsel exists at every stage of the criminal process: when you are first questioned; at preliminary hearings, the arraignment, and lineups where you are viewed by witnesses trying to identify a suspect; and at your trial, sentencing, appeals, and any proceedings to revoke probation. The U.S. Supreme Court has said that having a lawyer is essential to make sure that you actually receive all the other rights to which you are entitled.

For tribal courts, you do not have the right to a free lawyer if you cannot afford to hire one. Many tribes, however, provide some form of free help, often "lay advocates," or people who are not State-licensed lawyers but who have been trained to help those charged with a crime. Find out what system exists within your tribe from the tribal judge or from the law and order committee of the tribal council.

Your right to "effective representation" by counsel means more than just having your lawyer with you in court. You are entitled to have your lawyer investigate the case by attempting to talk to the witnesses who will be testifying against you and by interviewing people who might know something that could help you. You should help your lawyer as much as you can and stay in close touch with him or her, so that he or she will have all the information needed to make the best defense on your behalf.

The discussions with your lawyer are secret. They are protected by the "attorney-client privilege," which means that neither you nor your

lawyer can ever be forced in court or anywhere else to tell what was said between you.

Arraignment, Notice of Charges, and Bail

After your arrest, the police must bring you before a judge to be told the charges against you and what your rights are. This proceeding is called an "arraignment." Generally, at a State or Federal arraignment the judge will appoint a lawyer for you if you cannot afford to hire one yourself and will ask you whether you plead guilty or not guilty. As noted previously, you are not entitled to a free lawyer in tribal court, but you will be permitted to hire one. The police must bring you before a judge for arraignment without delay, usually (unless on a weekend) within 24 hours after arrest. Any statement or confession made by a person who has not been taken before a judge within a reasonable amount of time after arrest cannot be used at the trial.

In Federal court if you do not speak English, you will need an interpreter. Your lawyer will need to show the court that you do not speak or understand English well enough to understand what will be said in court. The court will pay for an interpreter, either court appointed or one selected by you. It is very important to get a good interpreter.

You are entitled to know exactly what the charges against you are and exactly when and where the crime is supposed to have happened so that you have an adequate opportunity to prepare a defense. Formal notice of the charges against you may be provided by an "information" filed by the prosecutor with the court or by "indictment" by a grand jury.

A grand jury is a group of citizens who hear evidence presented by a prosecutor and decide whether there is enough evidence to make you stand trial. If there is, the grand jury issues an indictment. The right to indictment by a grand jury is only guaranteed to those accused of serious crimes in Federal courts. Although some States have grand juries, the Constitution doesn't require them. Tribes also do not need to have grand juries.

Usually, at the arraignment the judge will set bail. Bail is a money deposit that you must post with the court in order to be released. It is supposed to ensure that you show up in court when required. When you come to trial, you will get the money back. If you fail to come, you will lose the money. Failing to show up in court when required is a crime and another warrant will be issued for your arrest. If you cannot afford the amount of money set for bail, you may be able to arrange to have it posted by a bail bondsman, who will charge a fee—

usually about 10 percent of the money put up—that will not be refunded.

The eighth amendment to the U.S. Constitution provides that "excessive bail shall not be required." Bail is excessive and unconstitutional if it is more than the amount needed to make sure that you will appear at your trial. In setting bail, the judge may take into account such things as how serious the charges are against you, your past record (if you have one), your ties to your family and the community. What is a reasonable amount of bail will vary from case to case.

Bail procedures in Federal court are governed by the Bail Reform Act, whose purpose is "to assure that all persons, regardless of their financial status, shall not needlessly be detained pending their appearance to answer charges. . . ." Under this law, everyone charged in Federal court must be released without bail unless the judge finds there is good reason to believe that an individual will not appear for trial unless money bail is required. Some States also provide for a defendant's release on "his or her own recognizance," or promise to reappear, when there is little reason to fear that he or she will not show up for trial.

If the judge sets bail in an amount that you are unable to raise, you should discuss with your lawyer the possibility of asking the judge to review the bail. It may be that you could present more information about your employment, for example, or your ties to the community, that would persuade the judge to reduce your bail or allow your release without bail.

What Happens Before Trial; Guilty Pleas

Most criminal cases never actually go to trial; they are resolved in the pretrial stages. It is important to understand what might happen before your trial so that you can talk to your lawyer and make sure that everything is being done to help your case.

As discussed previously, it is very important that a full investigation be made of all the facts in your case, both the evidence that the prosecutor intends to use against you and the evidence in your favor. Your lawyer may have the right to get some of this information from the prosecutor in a procedure called "discovery."

In some States, a hearing is held before the trial. At this "preliminary" hearing, witnesses for the prosecution, usually police officers, will state what the evidence is against you and the judge will decide if the evidence is enough to hold you for trial. You have the right to have a lawyer at this hearing.

Based on the results of investigation, discovery, and the preliminary hearing, your lawyer may decide that evidence against you may have been obtained illegally by the police. Your lawyer will file a "motion

to suppress evidence," asking the judge to prevent the evidence from being used in court against you. Examples of evidence that could be suppressed include a confession you gave the police before they told you of your rights, things taken in the course of an illegal search, or an identification by an eyewitness gotten by questionable means. Ordinarily, the judge will hold a pretrial motions hearing where witnesses will testify about how the evidence in question was obtained. Then the judge will decide if the evidence should be used in court or not.

It may be that after looking at all the circumstances of your case, you and your lawyer decide to think about whether you should plead guilty to all or some of the charges against you rather than go to trial. You should consider such things as how strong the evidence is against you, whether it is likely you could win your case, and whether you would receive a lighter sentence if you pleaded guilty rather than having a trial. If you agree, your lawyer may talk to the prosecutor about reducing the charges against you in return for a plea of guilty. This is called "plea-bargaining." Sometimes the prosecutor and the judge, because of crowded court schedules, will agree to reduce charges and give you a lighter sentence if you plead guilty rather than take up the court's time with a trial.

If you decide to plead guilty, you do it officially before the judge in court. Before accepting your plea, the judge will ask you a number of questions to make sure that you understand your rights and have freely made your decision. Your lawyer cannot enter a guilty plea for you.

The judge will ask you if you understand that you have the right to a trial, if you know the maximum sentence you could receive, if you are satisfied with the services of your lawyer, and if you voluntarily wish to plead guilty. The judge will ask the prosecutor for the facts in your case to make sure that your decision to plead guilty seems reasonable.

However, you have an absolute right to a trial if you want one. In a trial you have many rights and protections, as described in the next section. Before you decide to give up your right to trial and plead guilty, you should discuss your case fully with your lawyer, get answers to all your questions, and be sure that what you are doing is in your best interest.

Trial

By law every person accused of a crime is presumed to be innocent. You do not have to prove your innocence or produce any evidence at all in court. It is the prosecutor's job to get evidence that satisfies the jury beyond a reasonable doubt that you are guilty of the charges against you.

"Reasonable doubt" is a legal term that has extensive court interpretations. One definition used in court is:

> a doubt based on reason. . .as would cause a juror, after careful and candid and impartial consideration of all the evidence, to be so undecided that he cannot say that he has an abiding conviction of the defendant's guilt.
>
> It is such a doubt as would cause a reasonable person to hesitate or pause in the graver or more important transactions of life.
>
> However, it is not a fanciful doubt nor a whimsical doubt, nor a doubt based on conjecture. It is a doubt which is based on reason.

Unless your conduct is very disruptive, you have the right to be present in court throughout your trial. Through your lawyer, you have the right to question the witnesses against you. Your lawyer can test how reliable the testimony against you is by asking the witnesses about such things as how well they could see the events in question, how good their memory is, or any bias they might have that could affect what they say.

You do not have to testify or present any evidence in your own defense. The prosecutor cannot make any comment if you do not testify or present any evidence. On the other hand, you have the right to testify in your own defense. If you decide to testify, you can be questioned just like any other witness. You can also have witnesses testify in your defense. Your witnesses can be made to appear in court through a subpena or court order.

After all the witnesses have been questioned, the jury or judge will decide whether you are guilty beyond a reasonable doubt based on what they have heard. If there is a conflict in the testimony, the judge or jury will decide whom to believe.

A jury is a group of persons selected from the community to listen to a case and decide whether or not the person charged is guilty. All citizens are eligible to be on juries and can be asked to report to the court for "jury duty." The sixth amendment to the Constitution guarantees the right to trial by jury in State and Federal courts in all cases where the charges could mean a prison sentence of more than 6 months. In Federal court, a jury has 12 people and their decision, or verdict, must be unanimous,—that is, all the jurors must agree. In State courts, a jury must have at least six persons and only a substantial majority must agree on the verdict.

The Indian Civil Rights Act gives you the right to a jury in tribal courts for all criminal charges that could result in a jail sentence. The jury must have at least six people. The Indian Civil Rights Act does

not require a unanimous verdict. Whether the verdict of a tribal jury must be unanimous is left to the laws of each tribe.

In any case, you have a right to a jury of your peers. This doesn't mean, however, that if you are an American Indian, you have the right to a jury composed only of Indians. But you do have the right to a jury chosen from a fair cross section of the community without discrimination. In tribal court, a jury may well be exclusively Indian. At the beginning of the trial when the jurors are selected, called "voir dire," your lawyer or the judge may ask prospective jurors about any prejudice they might have against Indians. Any person who appears prejudiced may be excluded from serving on your jury.

Once your trial has begun, generally you may not be tried again for the same crime, no matter what the verdict is. You cannot be retried if the trial is not finished through no fault of yours. Finally, the government cannot try you again even if it finds new evidence against you. This right against retrial is call the protection against "double jeopardy." Its purpose is to prevent unfairness, embarrassment, anxiety, and the expense of repeated trials. A new trial is permitted, however, if a jury is unable to reach a verdict in the original trial, or if you were originally convicted and the conviction is reversed on appeal.

The protection against double jeopardy only prevents more than one trial for the same offense by the courts of the same kind of government (State, including local; tribal; or Federal). Both a tribe and the Federal Government can prosecute an Indian for the same criminal act committed on an Indian reservation, because tribes and the United States are each "separate sovereigns."

Sentencing

If you plead guilty or if you are found guilty after a trial, the judge will decide your punishment. Usually, the law sets a maximum punishment and the judge can impose any sentence within the maximum. Some offenses have a "mandatory sentence" set by law, which means that the judge has no choice but to impose the sentence set out in the law. In tribal court the maximum sentence that can be imposed is 6 months in jail or a $500 fine, or both. To help in making the decision about what sentence to give you, the judge may ask a "probation officer," if there is one, to prepare a report on your family background, past criminal record, and employment history.

Sentencing is critical, and here, too, you have the right to a lawyer. Talk to your lawyer so that all favorable information about your background can be given to the judge. Your lawyer may be able to suggest a program in place of a prison sentence, for example, alcohol or drug treatment. Your lawyer should know about any special

sentencing programs for which you may be eligible. One example is the Federal Youth Corrections Act, which applies tc persons under 22 who are convicted in Federal court.

Appeal

If you are found guilty after a trial, you may appeal to a higher court. The proper appeals court will vary, depending on what court you were tried in. For your State and Federal appeal, you have the right to a written transcript (record) of your trial and a right to a lawyer, both at government expense if you have no money to pay for them yourself.

The appeals court will only look to see if mistakes of law or procedure occurred that kept you from having a fair trial. Examples of such mistakes might be if a judge at your trial refused to let your lawyer present proper evidence in your defense; if evidence used against you was obtained illegally; or if the judge gave the jury the wrong instructions about the law that applies to your case. The appeals court will not second-guess the jury's decision about what witnesses to believe.

The appeals court may reject your appeal and allow conviction in the trial court to stand. It may dismiss the charges against you. Or, the court may decide that mistakes were made that kept you from getting a fair trial and order that you receive a new trial with proper procedures. If you win the appeal and the court of appeals orders a new trial, the rule against double jeopardy does not keep you from being tried again, because you gave up the right to claim double jeopardy when you appealed your case. If you are tried again and found guilty again, the judge cannot give a worse punishment than you received the first time. You will get credit for any part of your sentence you have already served.

The Indian Civil Rights Act does not require appeals in tribal court systems. You may, however, have an appeal system provided for by tribal law.

Rights of Children and Teenagers

Special courts for youngsters have been set up to make sure that young people get an opportunity for treatment and rehabilitation rather than punishment and imprisonment with hardened adult criminals. These courts are often called family or juvenile courts. Although not the same as criminal courts, juvenile courts must provide many of the same rights to youngsters that adults have when charged with crimes. The age dividing children from adults varies from place to place.

Juveniles have the same rights regarding police practices as adults. Police questioning, investigation, searches, and seizures must all follow standard guidelines. Evidence gotten illegally cannot be used against juveniles, just as it cannot be used against adults. A juvenile must be told what the charges are and given a hearing where the witnesses can be cross-examined. Juveniles may decide to remain silent when questioned by the police and in court. They have a right to have an attorney, and in State and Federal systems to be provided with an attorney at government expense if they have no money to hire one. (Free lawyers, as noted previously, are not guaranteed in tribal court.)

Usually, only a judge will decide a case in juvenile court. The proceedings are private and the public cannot attend. A juvenile does not have a right to a trial by jury, or to be released on bail. Many juvenile courts, however, have other forms of release available before a hearing or trial.

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Federal Grand Juries

If you receive a subpena to testify before a Federal or State grand jury, it is a matter of great seriousness and concern. Grand juries are different from courts and hearings in that they usually work very quickly and the witnesses under subpena have few rights and protections available to them. Below is a brief overview of how a grand jury works and the rights you may have. However, if you receive a grand jury subpena, you should contact a lawyer immediately—if possible, one with grand jury experience—to protect your rights and advise you what to do. For suggestions about how to find an attorney, see section at back, "Where to Find a Lawyer."

A grand jury subpena is a court order requiring a person to appear before a grand jury at a particular time, date, and place. To be valid, the subpena must be served, or delivered, in person (not by mail or left with someone else) to the individual whose name is on the subpena. There are two kinds of subpenas. The most common, called a "subpena ad testificandum," simply orders you to come and testify; the other kind, called a "subpena duces tecum," orders you to bring the documents, records, or objects named in the subpena to the grand jury.

You have the right to have a lawyer if you are subpenaed by a grand jury. If you are too poor to hire one, you may be able to get the judge to appoint a lawyer to help you at government expense. You do not have a right to a free lawyer, however.

You may have to appear before the grand jury within a very brief time, even one or two days after you get your subpena. Your lawyer may ask the judge for a delay, called a "continuance," in order to gain enough time to talk to you and find out what is going on.

When you appear before the grand jury, you must enter the grand jury room alone. Your lawyer cannot be in the grand jury room with you. However, you still have the right to get help from your lawyer. You can leave the grand jury room after each question is asked to discuss the answer with your lawyer.

Although you must appear before the grand jury if you are subpenaed, you may be able to refuse to answer particular questions based on your rights under the fifth amendment to the U.S. Constitution. The fifth amendment says that "No person shall. . .be compelled in any criminal case to be a witness against himself."

This means that the government cannot force you to give information that might possibly "incriminate" you or be used in a criminal court against you or provide a link in a chain of other evidence against you. This protection applies to you *whether or not* you believe you are in fact guilty of any crime. However, you can refuse to answer only those questions that might incriminate you. Generally you cannot

refuse to answer questions before the grand jury on the ground that your answers might incriminate someone else.

You may have other legal reasons for refusing to answer questions before the grand jury. You may refuse to answer certain questions because you would have to tell things that can be kept private by law. What is said between husband and wife, attorney and client, priest and penitent, and doctor and patient may be confidential. Also, you may refuse to answer questions based on information gathered by illegal wiretapping.

The law about what questions you may refuse to answer is very complicated. Find out from your lawyer what your rights are in your particular case.

If you refuse to answer based on your fifth amendment privilege against self-incrimination, the government may nevertheless try to force you to testify by getting a grant of "use immunity" from the court. Such an order would mean that the government cannot use your testimony or any leads gotten from your testimony against you later. Because of this promise, you could no longer refuse to answer questions on the grounds of self-incrimination.

If you refuse to answer questions after getting immunity, the government may ask a judge to say you are "in contempt of court" and imprison you until you agree to cooperate with the grand jury and answer questions. A hearing will be held on the government's request. Your lawyer can raise any legal objections to the grand jury procedures and to violations of your rights. If you are convicted of contempt in Federal court, you may be put in prison for as long as the grand jury is in session or for 18 months, whichever is shorter. You can ask an appeals court to review your contempt conviction and to release you on bail until your case is decided.

Laws and procedures for State grand juries differ from State to State, and it is beyond the scope of this handbook to discuss them in detail. When this handbook was published, tribal governments did not use grand juries.

Many people and organizations are worried about possible governmental abuse of grand jury proceedings. Some say that the law does not give enough protection to people subpenaed to testify before grand juries. Bills have been introduced in the U.S. Congress to provide greater protection for witnesses before Federal grand juries, although none has yet become law. Whatever changes in the law may occur in the future, it cannot be stated too often or too strongly that a person subpenaed to testify before a grand jury should get a lawyer right away.

Custody of Children

Sometimes State governments try to remove a child from its family on the basis of charges such as abandonment and neglect. Parents or other family members caring for children have a right to notice of the conduct or situation complained of in regard to their child, a hearing on the charges, and the help of a lawyer.

Some Indian tribes and organizations have protested when State authorities take Indian children from Indian families and put them up for adoption by non-Indians or place them in foster care with non-Indians. Attempts have been made to provide foster care within Indian communities and to persuade courts that it is usually against the interest of Indian children to remove them from their own people. A new Federal law, the Indian Child Welfare Act of 1978, will help Indian tribes and families keep their children.

Congress passed the Indian Child Welfare Act because an "alarmingly high percentage" of Indian children are taken from their families by non-Indian agencies. Often the Indian parent does not understand what is happening, and the officials making the decision know or care little about Indian ways. This law should help keep Indian families together and make sure that when Indian children do need foster care or adoption, priority will be given to homes that respect their Indian backgrounds.

First, the law says that an Indian child will not be taken from his family or community unless no other choice is available. No placement of an Indian child, except in short-term emergencies, shall occur unless the child's Indian parent(s) or custodian is given at least 30 days advance notice in writing, along with a statement of the reasons why the child would be removed. The parent can appear at the hearing to give facts in his or her favor, with the help of a lawyer. Attempts by social service agencies to improve the child's situation must have been unsuccessful before State government action can be taken.

If the Indian parents agree to have their child taken from the family, their consent must be given voluntarily and in writing before a judge. The judge must explain exactly what is happening. The explanation must be translated into the parents' native language, if needed. If they agree only to temporary placement of their child, the parents may change their mind at any time and withdraw their consent. If they agree to adoption or permanent placement of the child, the adoption will not become final until 90 days after the parents have agreed to the adoption in writing, and the parents may withdraw their consent any time within 90 days. The law is intended to make sure that parents understand the legal proceedings regarding placement of their child.

One of the most important things in the new law is that State courts or agencies must use the "prevailing social and cultural standards of the Indian community" to decide what to do with an Indian child.

If you have a problem regarding the custody of an Indian child, consult with your tribal organization or one of the offices listed at the back of this handbook to make sure that your rights and the child's rights are protected.

Civil and Administrative Due Process

Laws often provide only a basic outline of how a governmental duty or program will be handled. Day-to-day administration is left to agencies. Social services agencies, social security offices, motor vehicle bureaus, school boards, licensing boards, and State employment agencies are examples of such agencies. Often, these agencies decide who participates in a program, what cost will be charged, what conditions must be met, and so forth.

When the government takes an action that affects your life, liberty, or property, you have a right to certain procedural protections to make sure that decisions are made fairly. This is what is known as due process. These protections vary depending on the type of action the government has taken and how serious it is. For example, you may have:

- a right to be informed of a proposed action and the reasons for it
- a right to a hearing on the facts involved
- a right to adequate notice of the hearing
- a chance to present witnesses and evidence
- a chance to confront and question witnesses against you
- a right to have an attorney or someone else represent you
- a right to written reasons for a decision
- a right to appeal

Not all of these apply to every situation. Where administrative agencies do not recognize such rights, it may be possible to get a court to overrule them. Generally, if a court finds that an agency has not provided sufficient due process, the court would order the agency not to take the adverse action until the due process requirements are met.

For example: in one city, a welfare agency had a procedure for cutting off welfare. The agency would first stop someone's welfare payments and then hold a hearing to decide if the payments should continue. If the person won the case at the hearing, he or she would get the back payments restored.

The U.S. Supreme Court said this procedure was unconstitutional. By ending welfare payments before holding the hearing, the agency caused a great hardship on the person involved. On balance, the Court said, the need for the agency to end payments promptly did not outweigh the personal hardship created by the procedure. This case established a legal right to a "pretermination hearing" in welfare cases.

In cases where the hardship is not so great, a hearing might not be required before program benefits are ended or some other action is taken. But the due process requirement in general will still apply. In

civil law, the requirements of due process may differ in each situation. In any case, failure to provide due process leaves the action of the agency open to question in court.

The due process requirements for civil matters involving tribal governments are unclear. Federal courts used to make decisions in civil cases about the due process clause of the Indian Civil Rights Act. But since the ruling of the Supreme Court in the *Martinez* case, Federal courts can no longer decide cases brought by Indians claiming violations of civil due process by tribal governments. These matters are now decided by tribal courts that may or may not adopt the views of the Federal courts. However, because each tribe can establish its own procedures and court system, what is due process in a given situation will also vary from tribe to tribe.

Your Right to Vote

The right to vote includes the right to register to vote, the right to cast ballots in primary and regular elections, and the right to have one's vote counted honestly.

The 15th amendment to the U.S. Constitution states that "the right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." Other constitutional amendments guarantee the right to vote to anyone 18 or older and to both men and women and outlaw requiring payment of a poll tax.

However, tribal elections are not covered by the U.S. Constitution. Instead, tribes have their own election laws subject to the Indian Civil Rights Act. It is up to tribal courts, not Federal courts, to enforce tribal election laws and the Indian Civil Rights Act.

Constitutional amendments and Federal legislation guarantee the rights of all citizens to vote in Federal, State, city, and county elections. As citizens of the United States and residents of the States where they live, Indians are entitled to these rights. Some States, however, have attempted to prevent Indians from voting. Common excuses for excluding Indians have been that reservation residents are not residents of the States where the reservation is located; that Indians are "wards" of the Federal Government; or that Indians are "not taxed" and therefore they are not entitled to a voice in State or county politics.

None of these arguments can be used to deny voting rights to American Indians. It does not matter whether the Indian right to vote is restricted by State laws, voter regulations, or by statements made by local officials; whatever the form, the restrictions are illegal.

State and local governments can decide voter qualifications, conduct elections, and pass voter laws and regulations. Election regulations and voter qualifications must be fair and reasonable. Making it more difficult for some people to vote than others (for example, by putting voting places only in non-Indian areas) is illegal.

People may have to live in a place for a period of time before they can vote, but the time required cannot be very long. For example, a residency requirement of 1 year in a State and 3 months in a county has been declared invalid. However, a 30-day requirement is permitted because some time is needed to prepare a voter list.

Limiting the right to vote in school board elections to those who have children in school is illegal because parents are not the only people with an interest in school affairs.

The Voting Rights Act

For detailed information on Federal voting rights protection you should request a free copy of *Using the Voting Rights Act* from the U.S. Commission on Civil Rights, Washington, D.C. 20425.

Federal laws protecting voting rights apply to State and local governments and not to tribes. The law bars any restrictions that deny the right to vote to any citizen on the basis of race or color or because the person does not speak English. Although the law does not apply to tribal elections, it clearly applies to Indians voting in State and local elections. Certain kinds of behavior, such as threatening someone to prevent him or her from voting, are Federal crimes. If a person or a government interferes with or attempts to interfere with your right to register or vote, you should complain to the U.S. Department of Justice. (See section "How to File A Complaint. ").

Some parts of the country are covered more strictly by the Voting Rights Act according to a formula set up by Congress. For a list of these places, see section "Jurisdictions Covered Under the Voting Rights Act."

Once these States or local governments are "covered" by the act, they must send any changes they wish to make in voting laws, regulations, procedures, or qualifications to the U.S. Attorney General or to Federal court for approval *before* they can be used. This includes:

- changing district or precinct boundaries
- changing the boundaries of a village, town, city, or county
- changing the method of representation—for example, going from a district voting system to an at-large system
- changing voting or voter registration times, places, or qualifications

The Justice Department has protected Indian voting rights by bringing cases in Federal court. One suit claimed that a Wisconsin town tried to exclude residents of the Stockbridge-Munsee Reservation from voting in town elections. In another case, a South Dakota "organized" county tried to prevent Indians living in the "unorganized" county attached to it from running for county office. In a third case, a South Dakota county changed its election system from single-member districts to an at-large system.

The law also states that if enough people do not speak English, ballots and other election materials must be printed in their native language. (See "Jurisdictions Covered Under the Voting Rights Act" for places where this language requirement now applies.)

In addition to these requirements, the Government can intervene in a State or local election if necessary. Federal examiners and Federal election observers may be sent to supervise or watch an election to

protect voter rights. The law permits the U.S. Attorney General or people whose voting rights have been violated to ask the courts for such protection. In addition, under the Voting Rights Act, if a court finds that a State or local government or public official has failed to protect your voting rights, the government involved may have to pay your lawyer's bill.

Absentee Voting

Federal law and many State laws permit absentee voting. A person who is temporarily absent from the voting district or who cannot get to the polls because of illness or great distances may vote by mail.

Federal law guarantees the right to vote in Presidential elections to those who apply for an absentee ballot at least 7 days before the election. They must return it by the time the polls close. Absentee voting in State elections varies from State to State. Usually you must apply for an absentee ballot by a specific time in advance of the election and return it by a deadline. Absentee voting in tribal elections is up to the tribal government to determine.

One Man, One Vote

The equal protection clause of the 14th amendment means that your vote must count just as much as everybody else's vote. This is called the "one man, one vote" rule.

To ensure this right, the population of each voting district must be as nearly equal as possible. In Federal elections voting districts must be "substantially" equal in population. The rule is a little more lenient in State elections. For example, a State can create voting districts along boundary lines of its towns and cities if the population does not vary too much from district to district.

Voting districts that result in lessening the voting strength of the Indian population in Federal, State, and local elections can be challenged in Federal court.

Whether tribes must form election districts equal in population is not clear. Some Federal court decisions formerly required such districts. Since the recent Supreme Court decision in *Martinez,* however, Federal courts cannot review the size of tribal election districts. These matters are left to tribal courts for review, and the question is entirely up to each tribe.

Your Rights to Equal Employment Opportunities

Equal opportunity in employment is guaranteed by Federal and State laws, court decisions, and Presidential Executive orders. Discrimination is banned in all Federal, State, and local government employment, as well as in most private jobs. However, the laws and decisions apply to tribal employment only when Federal funds are used and even then to a very limited extent.

The Federal and State laws all differ somewhat, but in general an employer cannot treat employees or job applicants differently on the basis of race, color, religion, sex, national origin, age, or handicap. Discrimination based on marital status, political affiliation, or other grounds may also be illegal in some States.

Job discrimination itself is defined as treating someone differently with regard to hiring, training, promotion, benefits, working conditions, wages, or any other aspect of employment. Sometimes actions that have the same effect as discrimination are also illegal. For example, if an employer required a high school diploma and that requirement tended to screen out Indians, the employer would have to prove that a high school diploma was really necessary to do the job. If it were not, it would be illegal. Similarly, a test given to job applicants or employees seeking promotions would be illegal if it reduced opportunities for Indians in comparison to others unless the employer could show that the test validly measured job skills or predicted job success.

Before you file a complaint, however, be sure your employer is covered by the law. If uncertain, you can ask the nearest office of the U.S. Equal Employment Opportunity Commission. If you work for the Federal Government or for State or local governments, your employer is covered. The law also covers private employers who have 15 or more employees. Labor organizations that operate a hiring hall or that have at least 15 members and all employment agencies are covered. However, Indian tribes, religious organizations, and private membership clubs are not covered.

Special provisions apply to employers who do business with the Federal Government. These contractors are required to take "affirmative action." They must develop plans to make sure that members of minority groups who are the victims of discrimination are given a chance at a job. According to Federal law, Indians as a group can get special consideration due to past discrimination against them. (This is discussed at the end of this chapter.)

Government Employment

The Equal Employment Opportunity Commission (EEOC) is the Federal agency that enforces the law against discrimination by Federal, State, and local governments. Federal agencies must designate an "equal employment opportunity officer" and set up a procedure for dealing with complaints of discrimination. If you are a Federal employee or have applied for a Federal job and believe you have been discriminated against, you should complain, orally or in writing, to the equal employment opportunity officer of the agency in question. If you are not satisfied with the way your complaint is handled or with the proposed resolution of the complaint by the equal employment opportunity officer, you may appeal to the EEOC.

The Civil Service Reform Act of 1978 set up the Merit System Protection Board (MSPB). You can appeal certain adverse personnel actions to the MSPB, such as removal (firing), long suspensions, demotion, and reduction in pay. Under the law, discrimination in Federal jobs on the basis of race, color, religion, sex, national origin, age, handicap, marital status, or political affiliation is prohibited.

If you win your case, the MSPB can order an agency to take corrective action. If the MSPB rules against you, you may take your case to EEOC. If you are still dissatisfied or if 180 days have passed, you may sue in U.S. district court. For more information on Federal job discrimination, contact your local EEOC or MSPB office.

If you are the victim of State, city, or county government discrimination, the procedure is different. Many States and cities have laws against discrimination by government and employers and have a State or local equal employment agency (usually called a Fair Employment Practices Commission). This agency often has the same powers as the Federal EEOC, plus the power to hold hearings and issue orders that can be enforced in the courts.

If you complain to EEOC about State or local government discrimination where there is a State or local agency similar to EEOC, EEOC must notify the State or local agency of your complaint. The agency has at least 60 days to correct the situation before EEOC will take action itself.

In any case, EEOC has 180 days either to dismiss the case, settle it (so long as the employer and employee(s) or applicant(s) agree), or refer it to the U.S. Attorney General who may, in turn, file a lawsuit in Federal court.

After 180 days, you can go to court yourself, but you will need a lawyer. If you win the case in court, the government that discriminated against you may have to pay for your lawyer. Depending upon

your case, the court may order the employer to hire you, reinstate you, give you back pay, or take other appropriate action.

Private Employment

The Civil Rights Act of 1964 makes it illegal for private employers to hire, fire, or segregate employees or to limit pay, benefits, or employment and training opportunities because of race, color, religion, sex, or national origin. Unions or employment agencies cannot discriminate against union members or job applicants on these grounds. It is also illegal to discriminate against an employee who files an employment discrimination charge or who gets involved in an investigation of job discrimination, whether or not the charge is upheld. The 1964 act covers all employers who have 15 or more employees working for at least 20 weeks out of any given year, all labor unions with 15 or more members or that maintain a hiring hall or office, and all employment agencies.

Indian tribes are not covered by the law and may hire only Indians if they wish. Also, businesses located on or near Indian reservations may favor Indians living on or near those reservations (but they must first announce the policy publicly). Thus, tribes can require special job opportunities for Indians from private industry located on tribal land.

For example, a tribe may require a coal company to consider qualified tribal members ahead of non-Indians in hiring, promotion, tenure, layoff, or training programs and to include any other Indian employment advantage the tribe wishes to have in its lease.

If you are discriminated against by a private employer, you should file a complaint with the Equal Employment Opportunity Commission (EEOC). Depending on the merits of your case, EEOC can, after first giving an appropriate State or local fair employment agency the opportunity to handle the case, file a court case against the employer.

Discrimination may exist in a single case or as a pattern or practice of an employer, group of employers, industry, union, or employment agency. A "pattern or practice" is when a policy or even a routine rule followed by an employer has a negative impact upon the job opportunities of a particular group. Federal law provides added ways to challenge discrimination when it reaches the level of a pattern or practice. In such a case, the EEOC can immediately sue in Federal court to end the practice or pattern.

Title VI

The laws discussed so far in this section are aimed at preventing employment discrimination generally. Other laws prevent discrimination in the use of Federal grant and contract money by governments or organizations receiving the money.

Title VI of the Civil Rights Act of 1964 outlaws discrimination in all programs or activities receiving money from the Federal Government. Under Title VI, a Federal agency can order the government or organization that operates the program to stop its discriminatory practices. If this does not work, the Federal agency can recommend that Federal funds be cut off.

Title VI does not apply to job discrimination unless employment is a primary objective of the federally-supported program.

An example of the type of program that is covered is the Comprehensive Employment and Training Act (CETA), which is designed to provide jobs. If a local CETA program discriminated against Indians, the U.S. Department of Labor, which runs the program, is responsible under Title VI for requiring an end to the discriminatory practice.

When federally-supported programs or activities do not have employment as their main objective, Title VI cannot be used to end job discrimination in those programs. However, the 1964 Civil Rights Act and other appropriate Federal, State, and local laws still apply whether or not Title VI can be used.

Other Federal Laws

Several Federal laws protect you against job discrimination within certain individual programs. An example of such a law is the Trans-Alaskan Pipeline Authorization Act of 1973, which authorized construction of the Alaska oil pipeline and provided Federal funds for parts of the project. Although the primary objective of this law was to build a pipeline and not to provide jobs, the Department of the Interior was given the authority to cut off Federal funds if a contractor on the project were guilty of job discrimination.

A 1978 report, *A Compilation of Federal Laws and Executive Orders for Nondiscrimination and Equal Opportunity Programs* (GPO Pub. N. HRD-78-138, August 2, 1978), lists other laws that prohibit discrimination in specific projects or programs sponsored by the Federal Government. It is available from the Government Printing Office, Washington, D.C., 20402.

Tribal Agencies

The Equal Employment Opportunity Commission, with the help of other government agencies, provides technical assistance to tribes in setting up Tribal Employment Rights Offices (TEROs). These offices are run by tribal governments to increase job opportunities for tribal members on and off the reservation. They promote Indian job preference programs and assist tribal members in securing their Federal employment rights. Some reservations already have TEROs

and more are on the way. TEROs may be able to negotiate hiring preference clauses for Indians in contracts with businesses on or near reservations. They may act as referral agencies for complaints of discrimination or enforce the law directly if they have obtained the right to do so from EEOC. If you have a job discrimination complaint and you live on or near a reservation with a TERO, you may take your complaint there for further help.

Private Companies with Federal Contracts

Private employers doing business with agencies or departments of the Federal Government are covered by the 1964 Civil Rights Act as any private employer would be. In addition, such employers must obey Presidential orders dealing specifically with government contractors. In order to obtain government contracts of $10,000 or more, employers must agree not to discriminate.

In most cases, employers with 50 or more employees holding Federal contracts of $50,000 or more must also develop affirmative action plans. These plans set goals and timetables for improving minority and female employment opportunities, based partly on the proportion of minorities and women in the local labor market.

Goals are the number and types of jobs employers will try to fill with Indian employees. Timetables state when the employers expect to reach the goals they have set. Goals are intended to be flexible, depending upon the nature of the business, relevant labor markets, and other factors. In an area with a significant Indian population, employers must include Indians in their affirmative action plans.

An affirmative action plan with goals and timetables is a promise by the employer to take positive action to hire, train, and promote minority individuals and women. An employer with a large number of minority and female employees may still fail to comply with the law if those employees are concentrated in undesirable or lower paying jobs.

The Office of Federal Contracts Compliance Programs (OFCCP) in the Employment Standards Administration of the U.S. Department of Labor is the agency responsible for making sure this program works. It has information about which employers are covered by the Presidential orders and what affirmative action goals they must strive to meet. An employer covered by the Presidential orders who fails to meet affirmative action obligations may be "debarred" or forbidden from doing business with the Federal Government.

The OFCCP routinely reviews Federal contractors to see if they are complying with the law. It will also respond to specific complaints that a contractor is discriminating.

Like the Civil Rights Act of 1964, OFCCP rules allow employers on or near Indian reservations to follow a policy of extending job

preference to Indians providing the policy is announced publicly first. This provision clearly supports tribal governments that seek to increase Indian employment. It also permits employers to extend employment preference to Indians voluntarily without fear of violating Federal law.

Indian Job Preference

The exceptions to antidiscrimination laws that allow tribal governments and private employers to prefer Indians over non-Indians in filling jobs are discussed above. A separate category of Indian preference exists within the Federal Government. In addition to providing equal employment opportunities to all, those agencies that employ people specifically to serve Indians have an obligation to prefer Indians for Indian-related jobs.

This means that a qualified Indian applicant will be preferred over a competing qualified non-Indian applicant in initial hiring, transfer, reassignment, reinstatement, promotion, or other personnel actions. The Bureau of Indian Affairs and the Indian Health Service are the principal examples of agencies where Indian employment preference applies.

To qualify for the preference you must:

- be a member of a federally-recognized tribe, or
- be descended from a member of a federally-recognized tribe who on June 1, 1934, was living on an Indian reservation, or
- be at least one-half Indian blood of a tribe native to the United States, or
- be an Eskimo or Native Alaskan

Until January 17, 1981, you can also qualify for an Indian employment preference if you are at least a one-quarter blood descendant of a member of a federally-recognized tribe whose membership rolls were closed by an act of Congress. This provision is specifically designed to allow descendants of enrolled members of the Cherokee, Choctaw, Chickasaw, Seminole, and Creek tribes to qualify for Indian preference until 1981. They may qualify beyond that date if the tribes reorganize their governments under the Indian Reorganization Act of 1934.

Under the Indian Self-Determination and Education Assistance Act, Indian job preference has been extended to cover Federal grants and contracts with Indian organizations and to other employers receiving Federal money for the benefit of Indians. Employers in these categories, such as building contractors for Indian houses, hospitals, or schools and suppliers of other goods or services being paid for with Federal money, must prefer Indians for training and job opportunities. Indian-owned enterprises and Indian organizations must also be given

preference as subcontractors and subgrantees of Federal contracts and grants created for the benefit of Indians.

Your Right to Equal Educational Opportunity

The right to a free education in public schools is generally part of every State's laws, but it is not guaranteed by the Federal Constitution. What is guaranteed by the Federal Constitution is the right to receive equal educational opportunities whenever those opportunities are government operated. In other words, once the State government provides an education, it must do so without discrimination based on race, color, religion, sex, or national origin. Such discrimination is illegal at every level of education, from nursery school through college and graduate school.

Examples of discrimination in education include segregating Indian children within a public school or assigning them to separate schools based on race, excluding them from certain academic activities or sports, or requiring more or less of them than non-Indians. Public schools may not discriminate against Indian children by claiming that Indians do not pay school taxes, or that Indian education is a separate Federal responsibility, or for similar reasons. Because of the special relationship of the United States to Indians, Federal Indian schools are permitted to be exclusively Indian.

If a public school fails to provide equal educational opportunity, at least three remedies are available. Parents may file a lawsuit in court, using the Constitution's equal protection clause to challenge discriminatory educational practices.

Under the 1964 Civil Rights Act, public schools and colleges receiving any Federal money can lose the money if they continue to discriminate. The Office for Civil Rights of the Department of Education can require an end to discrimination or cut off Federal money if the school administration continues to discriminate.

The Civil Rights Act also authorizes the U.S. Attorney General to sue to end discrimination in public schools or to prevent discriminatory admissions policies in public colleges based on complaints received from individuals or their parents. In addition, there may be various things that can be done under State law to fight discrimination.

Indian Education

The unique relationship between Indian people and the Federal Government includes education. The Federal Government, in recognition of its responsibility, has provided programs specifically for Indian educational needs. It has also provided programs to meet special needs of other groups within which Indians may be included. An example of the first type of program is the establishment of BIA

schools specifically for the purpose of educating Indian children. An example of the second type of program is the bilingual-bicultural education program, which is for students whose primary language is not English. It applies to South American, Puerto Rican, Mexican American, Asian, and other language minority students as well as to American Indians whose native language is other than English.

It is important to keep in mind that such programs are intended as *additional* assistance to minority children. They cannot be used by schools to substitute for educational services that are otherwise required.

Programs

The Johnson-O'Malley program (JOM), run by the Bureau of Indian Affairs, and the Indian Education Act, through the Department of Education, both provide money to tribes as well as to State and local schools so they can help Indian children. Both require parent committees to make suggestions and to control administrative decisions about the nature of the programs adopted, hiring, program evaluation, and funds.

The law is clear that Federal funds provided through JOM and the Indian Education Act must be spent for Indian children as extra money rather than as a substitute for State education funds. When Navajo parents sued the Gallup-McKinley School District in New Mexico to prevent the school district from misusing funds, the court ruled in their favor. It found that the school district was spending more local funds on non-Indian children than on Indian children, leaving Federal JOM money to substitute for local money.

Similar situations around the country would also be subject to challenge in court. Parents and other members of the public have a right to see documents relating to the planned and actual use of Federal education funds by State and local school administrations. Complaints may be directed to the Federal agencies operating these programs if State or local officials fail or refuse to recognize this right.

The impact aid program, run by the Department of Education, provides money to substitute for local tax funds. School districts can get the money when they educate children whose parents live on land that is exempt from local taxes because of Federal law. The law applies to schools on or near military bases and other Federal installations, as well as to Indian reservations. Unlike the programs described above, impact aid funds are supposed to be used for general school purposes, not just for the extra needs of Indian education.

In recent years many people have become involved in the effort to preserve native language and culture in the education system. The bilingual education program, administered by the Department of

Education, provides money for bilingual education. The Department has a rule that school districts getting Federal money, where more than 5 percent of the students do not speak English at home, must take steps to assure that these students receive the help they may need. This rule includes children who mainly speak an Indian language. Failure to provide a bilingual program when required is illegal. It is also illegal to provide Indian children with a bilingual course only as a substitute for the English course.

Another important program for Indian children is Title I of the Elementary and Secondary Education Act. This law grants money to States to help low-income or educationally deprived students. The States, in turn, give Title I money to school districts to spend on eligible children. School districts may not mix this money with general school funds. They must spend it so that it specifically helps eligible children. In this case, children are "eligible" based only on family income level. Money may be spent on children of different backgrounds so long as income standards are met and the money is spent equally on all children who meet the standards.

Until quite recently, the Bureau of Indian Affairs has run the Federal Indian schools on and off Indian reservations. However, the Indian Education Assistance Act of 1975 allows the Bureau to sign contracts with Indian tribes so the tribes can run Federal Indian schools themselves with Federal financial help. Local Indian school administrators replace BIA officials. This lets Indians have the kind of schools they want. It offers an alternative to Indian tribes who are not satisfied with the BIA schools or county or city schools.

Indian Student Rights

Indian students in public schools have the same rights as other students. In general, student rights vary depending on who operates the school. Schools run by the BIA, the State, or by a local school board must give students more rights than private or parochial schools, because Federal and State laws hold government-operated schools accountable to a higher standard.

For example, the U.S. Constitution requires separation between church and State and prohibits religious instruction in public schools. Private, parochial, mission, and tribal schools may teach or observe religion as they wish because they are not run by the Federal or State government.

In BIA schools, student rights are spelled out in written BIA rules. Schools run by tribes must follow tribal law and the decisions of tribal courts. They must also obey the Indian Civil Rights Act, as interpreted by the tribal court. The Federal Government may also require tribal schools to observe the rights of students if the schools get Federal money.

First Amendment Rights

The first amendment to the United States Constitution, as discussed earlier, guarantees the right of free speech and freedom of the press and the right to assemble peaceably and to petition government for a redress of grievances. Students in public schools have these rights also, and they may exercise these rights unless in doing so they would substantially disrupt the educational process of the school.

Generally, as a student, you have a legal right to wear buttons, armbands, badges, etc., in school to express your views on an issue. You may distribute leaflets and talk to other students about any subject outside of classes. If bulletin boards, loudspeaker systems, mimeograph machines, or other school facilities are made available to some students for expressing their views, then those facilities must be made available to all students on an equal basis.

School administrators can control the use of school facilities to protect school property and to maintain order. If, however, you are not disrupting your education or the education of others, school officials may not legally interfere with your freedom to express your beliefs.

School administrators have more control over other forms of free expression. For example, demonstrations on school property are more likely to be considered disruptive than the wearing of buttons. The courts have said that noisy demonstrators or blocked hallways are adequate reasons to stop demonstrations. In determining whether

certain conduct is disruptive, it is the conduct of the students expressing their beliefs that must be considered. Disruptive reactions by others or the threat of such reactions are not valid reasons to prevent free expression.

Demonstrations outside of the building, outside of school hours, and concerning school-related issues are the most likely to be allowed by a court because they are least likely to disrupt education and because they concern school problems.

In some cases, school administrators have tried to prevent students with unpopular views or causes from gathering together to express themselves. Unless school officials can show that such a gathering would disrupt legitimate school functions, they may not interfere.

As a public school student you also have a right to express your views on paper. You may use a school newspaper or an outside publication. While a student newspaper is not required to print an article you have written, the decision to print or not to print it must be made through the normal editorial process. School administrators may not prevent publication because your viewpoint is unpopular or because you criticize school policy. If, however, the article would disrupt the school, then publication of the article probably can legally be prevented.

You also have freedom of religion in school. Public schools may not teach religion or require you to observe religious functions such as prayer ceremonies. However, schools can give students time to practice their own religion.

This outline of first amendment rights is based on court decisions made in individual cases. In BIA schools these rights and others are specifically guaranteed by BIA regulations. The BIA is expected soon to issue rules recognizing these rights in tribal or other non-BIA schools that receive BIA money. Copies of all such written regulations are available through any BIA office.

Personal Appearance

No rule about personal appearance applies to all schools. The outcome of any challenge to such a rule will depend largely on what courts in your State or Federal district have done.

In nearly one-half the States, rules about hair length are illegal. As of January 1977 these States were: Arkansas, Connecticut, Idaho, Illinois, Iowa, Maine, Massachusetts, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Rhode Island, South Carolina, South Dakota, Vermont, Virginia, West Virginia, and Wisconsin.

In other States, schools may regulate hair length if they wish. As of January 1977 these states were: Alabama, Alaska, Arizona, California,

Colorado, Florida, Georgia, Hawaii, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Montana, Nevada, New Mexico, Ohio, Oklahoma, Oregon, Tennessee, Texas, Utah, Washington, and Wyoming.

In these States, schools can also have dress codes and require that certain clothing, such as shorts and sneakers, must be worn for certain activities, like gym class. A public school probably cannot make you buy a specific article of clothing, like a gym uniform. That would violate your right to a free public education in any State where school attendance is required by State law.

In BIA schools, students can wear their hair and dress as they wish as long as they do not disrupt the school.

Due Process

Due process rights in school apply to disciplinary actions such as suspensions, expulsions, and involuntary transfers. The requirements of due process depend on the seriousness of the charges and upon the possible punishment.

For example, being made to sit in a corner for one hour would probably require only that you be told what rule you had broken and that you be offered a chance to explain. If you are faced with suspension, you would have a right to be notified of the charges against you, the right to be informed of the evidence against you, and the right to tell your side of the story. These procedural rights should be honored before the suspension is actually carried out, unless there is a threat to health or safety or some other reason why it would not be practical.

Suspensions of more than 10 days or expulsion would probably mean you could have an attorney and a hearing before an impartial person—someone who was not directly involved and didn't see the event in question. You also have the right to remain silent, and that is particularly important if the circumstances leading to the suspension hearing are also the basis for a criminal charge. Anything you say at the school hearing could be used against you later in the criminal case.

In addition to due process requirements, States have laws on school discipline. These laws vary. They may say when a punishment may be imposed, what procedures must be followed, and who has the authority to suspend, transfer, or expel a student. If you are faced with a very serious punishment, it might be wise to talk to a lawyer. Sometimes you may appeal a disciplinary action in court.

In BIA schools, students faced with suspension, expulsion, or transfer must be given almost all the rights that would be available to a defendant in a criminal trial, including a right to administrative review and appeal.

Spanking, paddling, or other physical punishments are allowed by the U.S. Supreme Court; it is up to the State and local authorities to decide whether the schools may use physical punishment. It may seem strange that convicts may not be beaten in prison while students may be hit by teachers in school, but it is true. Also, there is no requirement that a hearing be held before a paddling occurs.

Even if spanking is allowed, excessive force or punishment could be the basis of a lawsuit for civil damages or criminal charges against the teacher or administrator who spanks a child. Unfortunately, such action can only be taken after a student has been punished.

Federal regulations prohibit the use of cruel and unusual punishment, including corporal punishment, in BIA schools.

Law Enforcement

Students generally have the same rights as anyone else when faced with situations involving police or FBI agents. (See previous section, "Fair Treatment by the Police.") However, under current law, your desk, locker, and, in most cases, even your person may be searched by police, teachers, or school officials while you are in school. Some lower courts have said that searches in school without a warrant are illegal, but, to be safe, assume that such searches are permitted and that anything found may be used against you in a criminal trial.

In a BIA school, you have a right to be free from unreasonable search and seizure. The BIA is expected to explain exactly what this means in a new set of guidelines to be published soon.

The BIA already has rules that cover the questioning of students in BIA schools by police. The police must have the consent of a parent or legal guardian before questioning students. The questioning must be done in private, with a parent, guardian, or school official present on behalf of the student. A student may not be removed from school without parental consent or a valid arrest warrant. Teachers and school officials may not act as agents for police. Finally, the school must turn over to the student and to his or her parents any information (such as warrants, etc.) connected with the legal process.

Other Student Rights

Under Federal law, students in public schools or their parents have a right to see their school records. They also have a right to see job or college recommendations. The release of information from student files is also restricted to protect the privacy of students.

If you believe you are being subjected to discrimination in any way, you should talk to a lawyer. If you can't afford an attorney, contact a legal services program. The Office for Civil Rights of the U.S. Department of Education or the department of education in your State

may also help. For BIA schools, you may get help from local or area BIA offices or through the Washington, D.C., Office of Indian Education Programs. For more detailed information on student rights, consult the American Civil Liberties Union publication, "The Rights of Students."

Your Rights to Fair Housing

Discrimination in the sale or rental of housing is prohibited by Federal law as well as by many State laws. Fair housing rights also apply to housing receiving Federal financial assistance and government-owned and -operated housing. Federal fair housing rights are guaranteed by the Constitution, Presidential Executive Order, and Federal laws.

Title VIII of the 1968 Civil Rights Act covers all housing except single-family homes sold or rented without the use of a broker and without discriminatory advertising and rooms or units in dwellings with living quarters for no more than four families, provided the owner lives in one of them and does not advertise or use a broker.

In addition, religious organizations and affiliated associations are free to give preference in selling or renting housing to persons of the same religion, provided that the property is not owned or operated for a commercial purpose and provided that the religion itself does not restrict membership on account of race, color, sex, or national origin.

Private clubs and religious organizations that are not open to the public and that incidentally operate noncommercial housing may limit occupancy of the housing to their members.

The 1968 law forbids discrimination based on race, color, religion, sex, or national origin in the sale, rental, or financing of real estate, housing, or repairs. No one can treat you differently because you are an American Indian by refusing to rent or sell property to you or by renting or selling property to you at a price or with conditions attached that are different from those applying to non-Indians. Nor can anyone lie to you about whether a particular home is available or deny you a loan to buy, build, or fix up a home because you are an Indian.

The act also forbids real estate broker organizations from discriminating against Indians as members.

A common illegal practice in urban areas is "steering," or directing people of one racial, ethnic, or religious group into a particular neighborhood, usually where members of the same group already live. Steering makes racial segregation of neighborhoods worse. Another common practice is "blockbusting"—creating fear among home owners that the racial or ethnic composition of their neighborhood is about to change dramatically. As members of the new group are steered into the neighborhood, more people sell their houses and real estate agents make high profits.

If you believe you were discriminated against when you tried to rent or buy a house or apartment, you can file a complaint with the U.S.

Department of Housing and Urban Development (HUD). You must file within 180 days after the incident you complain of occurred.

HUD will send your complaint to a State or local agency in your area if the local fair housing laws are the same as the Federal law. States usually have an agency that investigates and tries to resolve housing complaints. If no settlement is reached, the agency can usually order the landlord, seller, or agent to settle.

If the State or local agency does not act on your complaint within 30 days, HUD can take over. If HUD decides to resolve the complaint, it will try to do so informally. If it can't be settled informally, your lawyer or legal services attorney can sue the seller or landlord within 30 days in State or Federal court. You can also sue in Federal or State court without filing a complaint with HUD. If you cannot afford a lawyer, the court may appoint one for you. If the court decides, after a trial, that discrimination has occurred, it can order that the property be rented or sold to you. You may also collect money damages.

The U.S. Attorney General may sue when discrimination affects a group of people and is of special public importance and when discrimination is a general pattern or practice that violates the Federal Fair Housing Act.

In 1980, HUD's authority and procedures were being reviewed in Congress. The agency's power to fight discrimination in housing may be increased. At present, HUD has no authority to represent individuals in court directly or to issue orders of its own as many State and local agencies can.

Local Government Services

Governments usually provide such services as roads, police and fire protection, garbage collection, and water and sewer service. Often Federal money helps pay for these services through revenue sharing or grant programs.

State, city, county, and other local governments providing these municipal services may not discriminate against you because of your race, color, religion, sex, or national origin. That means they cannot collect garbage in Indian neighborhoods less often than in white neighborhoods, for example. Nor can they refuse to provide water and sewer services for housing to be built on Indian trust land, as a city in Michigan tried to do.

Federal law also provides that where Federal money is used to provide services, the money cannot be used in a way that discriminates against American Indians. The Federal government could cut off money if that happens. The agency running the program is the appropriate place to complain about such discrimination. If you don't know which Federal programs might be involved, contact the nearest

HUD office or the Civil Rights Division of the Justice Department in Washington, D.C. (See section, "Where to File Complaints About Violations of Rights.")

Indian Housing

Federal housing law and HUD rules provide for setting up housing authorities to spend Federal housing funds for the benefit of low-income families. These housing authorities cannot discriminate on the basis of race, color, religion, sex, or national origin. If they do, they risk losing Federal money.

HUD rules also recognize the special obligation of the Federal Government to provide housing assistance to Indians by helping Indian Housing Authorities (IHAs).

The antidiscrimination provisions of Title VI of the 1964 Civil Rights Act and Title VIII of the 1968 Civil Rights Act (Federal Fair Housing Act) do not apply to the IHAs that are set up by tribes. Thus, the IHAs created by tribes can provide housing only to tribal members or other Indians without violating the rights of other low-income persons.

In the case of IHAs set up under State law rather than by tribes, HUD decides on a case-by-case basis whether the Federal antidiscrimination laws should apply.

In the rules for IHAs, HUD has allowed for the Indian Self-Determination and Education Assistance Act, which promotes Indian training and employment and includes an Indian preference for Indian-owned economic enterprises such as Indian contractors and subcontractors. HUD projects run by IHAs are expected to adopt employment and contracting rules of their own to carry out the intent of this Federal law. They are also expected to hire, train, and promote Indian employees and use the services or products of Indian-owned firms as much as possible.

Your Rights to Equal Credit

A creditor who discriminates against you in any part of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, or age violates Federal law. Creditors are not permitted to deny credit, refuse to loan you money, or impose higher interest rates or more difficult terms because you are Indian. It is even against the law for a creditor to discourage you from applying for credit.

All kinds of creditors are covered by the law, including banks, finance companies, Indian traders, credit card companies, retail stores, and mortgage companies. If you are denied credit, or your credit is revoked or reduced, or if the credit terms offered are substantially less favorable than those you applied for, you are entitled to a statement of reasons for the action taken and a notice telling you the name and address of the Federal agency authorized to handle the type of credit transaction involved.

In some cases, creditors have been known to mark off an entire section of a city, town, county, or rural area as a place where no one will be given credit. This practice is called "redlining," and it is sometimes based on the racial background of the people living in the area. This is a violation of law, and if you believe you are being subjected to redlining, you should bring that to the attention of the appropriate Federal agency.

About a dozen agencies of the Federal Government have enforcement authority under the law. Agencies are assigned responsibility based on the type of credit involved. The agencies with overall authority are listed in section, "Where to File Complaints About Violations of Rights."

You also have a right to hire your own lawyer and to sue a creditor directly for discriminating against you. In addition to obtaining credit, a successful lawsuit may result in the creditor's being required to pay you money damages as well as your attorney's fees.

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Your Right to Use Public Facilities and Accommodations

The Constitution outlaws discrimination in the operation of any facility that is owned, run, or managed by Federal, State, county, or city government. Courthouses, jails, hospitals, parks, swimming pools, and transportation systems all must treat everyone equally. In addition, discrimination in privately-owned hotels, restaurants, gasoline stations, theaters, sports stadiums, and similar facilities violates the 1964 Civil Rights Act. Most States also have laws against such discrimination.

If you are discriminated against, you may sue in Federal court to prevent further discrimination. If you cannot afford a lawyer, the court may appoint one for you. If you win, your legal fees may be paid as part of the court's decision. The U.S. Attorney General can also sue to enforce the law.

In States where State or local officials can investigate discrimination in public accommodations or order an end to any violations, you cannot sue in Federal court before the State has had 30 days to resolve the matter.

In addition, a judge can refer the matter to the Community Relations Service of the U.S. Department of Justice. CRS would have up to 120 days to settle the case informally. The case can go back to court if the Community Relations Service cannot settle it.

The Taking of Private Property

Under certain circumstances, Federal, State, local, or tribal governments may take property owned by private individuals for public use. The taking of private property for a public purpose is called "eminent domain." Property may be taken under this power only for purposes that benefit the public, such as building a road or developing an irrigation project. Under no circumstances may property be taken from one person to benefit another private person or group. The Constitution and the Indian Bill of Rights require that where the Federal, State, or tribal government takes private property for public use, the owner must be paid "just compensation" or the fair value of the property at the time that it was taken. If you disagree with the price offered, you have a right to a court hearing to determine what the amount should be. Under some circumstances, even though property is not actually taken, the government may use or devalue it in such a manner that the owner is entitled to compensation.

In addition to private land ownership, individual Indians and tribes occupy or hold lands resulting from aboriginal ownership, treaties, Presidential orders, congressional laws, and State laws. The rights of governments to take these lands for public use, and whether or not compensation must be paid, will vary depending upon the circumstances. Tribal land and allotted land, like other property, are subject to the Federal eminent domain power. They are subject to State power, however, only where the Federal Government has given such permission to the State.

In any case involving the taking of land for public purposes, an attorney should be consulted to determine which rights apply to your situation.

Complaints About Violations of Rights

How to File a Complaint

Your complaint should be in writing (typed or printed neatly), dated, signed, and should include the following information:

- your name,
- your address and telephone numbers at home and at work,
- the name and address of the person(s) and/or establishment you believe to have discriminated against you,
- a description of the action or actions of discrimination. This should include the date and place of the action, what you believe to be the basis for discrimination (race, sex, etc.), and the names of persons who have information concerning your complaint.

When your complaint is investigated, you may also be asked for copies of receipts, contracts, or other records supporting your claim of discrimination. Do not send materials that you want returned with your initial complaint.

Where to File Complaints

If you have a complaint, you should first decide if you want to take it up with the Federal Government. States, counties, and municipalities also have laws against discrimination, and these are sometimes stronger than Federal ones. Frequently, these governments act on complaints more quickly. If they have applicable laws, you can file a complaint with them instead of with the Federal Government. The Federal Government has arrangements with some State governments to refer certain kinds of complaints to them.

Because laws and regulations frequently require that complaints be filed within certain time limits, it is important to file as soon as possible after the discriminatory act occurs.

The U.S. Commission on Civil Rights has no power to enforce the law and hence cannot resolve individual complaints of discrimination. If, after reading this booklet, you are still not sure which agency you should contact, send your complaint to:

Complaint Referral
U.S. Commission on Civil Rights
Washington, D.C. 20425

The complaint will be forwarded to the appropriate agency or official.

Discrimination in the Operation of Federally-Assisted Programs

Welfare, Education, or Health Programs

For complaints regarding welfare programs, social security, health programs, including the Indian Health Service, and similar programs, write to:

Director
Office for Civil Rights
Department of Health and Human Services
Washington, D.C. 20201

For complaints regarding schools and educational programs, write to:

Director
Office for Civil Rights
Department of Education
Washington, D.C. 20202

State or Local Facilities

For complaints about the operation of State, county, or city facilities, write to:

Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530

Antipoverty Programs

For complaints about discrimination in antipoverty programs, such as community action programs, direct employment projects, and neighborhood services, write to:

Office of Legal Affairs and General Counsel
Human Rights Division
Community Services Administration
Washington, D.C. 20506

Farm Programs and Food Stamps

For complaints concerning discrimination in farm programs such as agriculture conservation programs, extension programs, rural loans, food stamps, surplus commodities, and school lunch programs, write to:

Assistant to the Secretary for Civil Rights
Department of Agriculture
Washington, D.C. 20250

Private Employers and State Employment Programs

For complaints of discrimination by an employer in being hired or tested for a job, in being promoted or fired, in work opportunities or conditions, in pay or benefits, or in apprenticeship or training programs; by a labor union in its apprenticeship or training programs, hiring hall procedures, or membership requirements; by an employment agency, including a State employment service, in its job testing, referrals, or fees write or call the nearest office of the Equal Employment Opportunity Commission. They will give you instructions and forms for filing a charge. Complaints must usually be filed within 180 days after the discriminatory act takes place.

Consult the telephone directory for the nearest office of the EEOC, or write to the headquarters at this address:

Equal Employment Opportunity Commission
Washington, D.C. 20506

Federal Government

To complain about discrimination or segregation in hiring, promotion, dismissal, work opportunities, or working conditions within agencies of the Federal Government, direct the complaint to the equal employment opportunity office of that agency. If the agency rules against you, you should ask the equal employment opportunity director what appeal rights you have and what the time limits are for filing an appeal.

If your complaint concerns an action that may not be appealed to the Merit Systems Protection Board (such as most instances of refusing to hire or promote you), you may appeal directly to EEOC. Obtain a complaint form from the agency and file it with:

Office of Appeals and Review
Equal Employment Opportunity Commission
Washington, D.C. 20506

If your complaint concerns an action that may be appealed to the MSPB (such as being fired), you may take your appeal there, or you may instead take the matter to court. MSPB complaint forms should be obtained from the agency and filed with:

Merit Systems Protection Board
Washington, D.C. 20419

If the MSPB rules against you on the discrimination aspect of your case, you may then ask EEOC to review the MSPB decision, or you may go to court.

Private Companies with Federal Contracts

Private employers who have contracted with agencies or departments of the Federal Government are prohibited from employment discrimination by Presidential order. In addition to contacting the EEOC, you may send complaints about discrimination by such companies to:

Director, Office of Federal Contract Compliance
U.S. Department of Labor
Washington, D.C. 20210

When the complaint involves discrimination by a private employer under Federal contract on an Indian reservation, a copy should also be sent to:

Commissioner
Bureau of Indian Affairs
U.S. Department of the Interior
Washington, D.C. 20242

Fair Housing

Complaints regarding discrimination in the sale or rental of houses or apartments should be filed within 180 days of the act of discrimination with:

Director of Equal Housing Opportunity
Department of Housing and Urban Development
Washington, D.C. 20410

The Attorney General of the United States may bring a housing suit in cases where the discrimination affects a large number of persons, or is otherwise of special public importance. Complaints of this nature should be addressed to:

Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530

Public Accommodations

Complaints about discrimination by hotels, restaurants, theaters, and similar places open to the public should be sent to:

Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
Washington, D. C. 20530

Education

Complaints regarding discrimination in public education should be addressed to:

Director
Office for Civil Rights
Department of Education
Washington, D.C. 20202

and to:

Office of Indian Education
Department of Education
Washington, D.C. 20202

and to:

Assistant Attorney General
Civil Rights Division
Department of Justice
Washington, D.C. 20530

Johnson-O'Malley

Complaints regarding the misuse of Johnson-O'Malley funds, or denial of access to public information about this program, should be addressed to the State Director of Indian Education, and to:

Commissioner
Bureau of Indian Affairs
Department of the Interior
Washington, D.C. 20242

Voting Violations

Persons who feel their right to vote has been interfered with should address complaints to:

Assistant Attorney General
Civil Rights Division
Department of Justice
Washington, D.C. 20530

Law Enforcement

For complaints about police brutality or abuse of your rights by the police or other public officials, contact the nearest office of the Federal Bureau of Investigation (FBI), listed in the front of the phone book under "police," or write to:

Assistant Attorney General
Civil Rights Division
Department of Justice
Washington, D.C. 20530

For complaints about discrimination by a court, jail, prison, or other law enforcement agency in employment or failure to provide police protection, also write to:

Office of Civil Rights Compliance

Law Enforcement Assistance Administration
U.S. Department of Justice
Washington, D.C. 20530

LEAA can act if it provides Federal money or assistance to the program or activity.

For Further Information

A pamphlet is available from the United States Commission on Civil Rights entitled, *Getting Uncle Sam to Enforce Your Civil Rights,* which provides more detailed information about agencies that enforce laws against discrimination.

Single copies of this pamphlet are available free of charge by contacting:

Publications Division
U.S. Commission on Civil Rights
Washington, D.C. 20425
(703) 557-1794

Credit Discrimination

Overall enforcement responsibility for equal credit opportunity law is given to the Federal Trade Commission. If you have a complaint dealing with

- a retail store, department store, Indian trader, small loan and finance company, gasoline or other nonbank credit card issuer, State-chartered credit union, or other creditor,

the Commission can handle it directly. In other credit situations it will refer you to the proper agency. Write to:

Equal Credit Opportunity
Federal Trade Commission
Washington, D.C. 20580

Regulations for the Equal Credit Opportunity Act are written by the Federal Reserve Board. This agency also directly handles complaints against State-chartered banks that are members of the Federal Reserve System. For questions about government credit regulations or to complain, write to:

Division of Consumer and Community Affairs
Federal Reserve Board
Washington, D.C. 20551

or to the nearest FTC regional office.

The Justice Department may sue lenders who show a pattern or practice of equal credit violations. It may also file suit in cases referred to the Justice Department by the agency which initially investigated the complaints. You may write to:

Chief, General Litigation Section
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530

Where to Get a Lawyer

The following list contains selected programs providing free civil legal assistance. These programs are of special importance to American Indians because they specialize in Indian legal problems or because they are located in areas where many Indians live.

Most of these programs are available only to members of low-income families. Many of them follow "income eligibility guidelines" set by the Federal Government. This means that to be eligible for the program's services a person's income must not exceed a set amount.

Most of these programs cannot provide direct legal representation in: (1) criminal matters (some programs can provide assistance in misdemeanor cases and in tribal courts); or (2) cases from which a fee could be raised. However, even when they cannot directly handle a person's problem, lawyers in these offices will provide advice and explain where appropriate legal assistance can be obtained.

Many of the programs have branch offices in various parts of the States in which they are located. Contact the office listed to find out the nearest location where you may obtain legal services.

If you cannot locate a legal assistance project in your area, describing the type of assistance needed, contact:

Legal Services Corporation
733 15th St. N.W.
Washington, D.C. 20005
(202) 376-5100

ALASKA

Alaska Legal Services Corporation
736 G St.
Anchorage, Alaska 99501
(907) 272-9431

Local Offices

Alaska Legal Services Corporation
P.O. Box 309
Barrow, Alaska 99723
(907) 852-2300

Alaska Legal Services Corporation
P.O. Box 248
Bethel, Alaska 99559
(907) 543-2238

Alaska Legal Services Corporation

P.O. Box 181
Dillingham, Alaska 99576
(907) 842-5653

Alaska Legal Services Corporation
763 7th Ave.
Fairbanks, Alaska 99701
(907) 456-5401

Alaska Legal Services Corporation
419 6th St., Suite 322
Juneau, Alaska 99801
(907) 586-6425

Alaska Legal Services Corporation
301 NBA Bldg.
Ketchikan, Alaska 99901
(907) 225-6420

Alaska Legal Services Corporation
P.O. Box 304
Kodiak, Alaska 99615
(907) 486-4178

Alaska Legal Services Corporation
P.O. Box 316
Kotzebue, Alaska 99752
(907) 442-3398

Alaska Legal Services Corporation
P.O. Box 40
Nome, Alaska 99762
(907) 443-2951

Alaska Legal Services Corporation
P.O. Box 131
Sitka, Alaska 99835
(907) 747-8037

ARIZONA

Apache Legal Aid
P.O. Box 1119
White River, Ariz. 85941
(602) 338-4828

Dinebeiina Nahiilna Be Agaditahe (DNA)
P.O. Box 306
Window Rock, Ariz. 86515
(602)871–4151

Local Offices

Chinle DNA Office
P.O. Box 767
Chinle, Ariz. 86503
(602) 674–5242

Tuba City DNA Office
P.O. Box 765
Tuba City, Ariz. 86045
(602) 283–5265

Papago Legal Services
P.O. Box 246
Sells, Ariz. 85634
(602) 383–2420

Navajo Legal Aid and Defender Service
P.O. Box 662
Window Rock, Ariz. 86515
(602) 871–4337

Community Legal Services
Main Office
903 N. 2d St.
Phoenix, Ariz. 85003
(602) 258–3434

Coconino County Legal Aid
19 East Phoenix Ave.
Flagstaff, Ariz. 86001
(602) 774–0653

Southern Arizona Legal Aid, Inc.
155 E. Alameda
Tucson, Ariz. 85701
(602) 623–9461

CALIFORNIA

California Indian Legal Services

1736 Franklin, Suite 900
Oakland, Calif. 94612
(415) 835-0284

Local Offices

California Indian Legal Services
Box 993
Route 1, See Vee Lane
Bishop, Calif. 93514
(714) 873-3582

California Indian Legal Services
P.O. Box 2457
1860 S. Escondido Blvd.
Escondido, Calif. 92025
(714) 746-8941

California Indian Legal Services
P.O. Box 1228
917 3rd St.
Eureka, Calif., 95501
(707) 443-8397

California Indian Legal Services
P.O. Box 488
200 W. Henry St.
Ukiah, Calif. 95482
(707) 462-3825

COLORADO

Colorado Rural Legal Services
1644 Emerson St.
Denver, Colo. 80218
(303) 831-7751

Legal Aid Society of Metropolitan Denver
Central Office
912 Broadway
Denver, Colo. 80204
(303) 837-1313

FLORIDA

Florida Rural Legal Services
132 S.W. Ave. "B"

Belle Glade, Fla. 33420
(305) 832-2150

Local Offices

Florida Rural Legal Services
381 N. Krome Ave., Suite 206
P.O. Box "P"
Homestead, Fla. 33030
(305) 248-5500

Florida Rural Legal Services
2502 2nd St., Suite 16
Fort Myers, Fla. 33902
(813) 334-4554

Florida Rural Legal Services
319 N. 4th St.
P.O. Box 3431
Fort Pierce, Fla. 33450
(305) 461-4550

Florida Rural Legal Services
107 Main St.
P.O. Box 1109
Immokalee, Fla. 33934
(813) 657-3631

Florida Rural Legal Services
230 E. Main St.
P.O. Drawer 1345
Taveres, Fla. 32779
(904) 343-2391

Florida Rural Legal Services
103 S. 9th St.
P.O. Box 1637
Wauchula, Fla. 33873
(813) 773-3291

Florida Rural Legal Services
105 S. Narcissus Ave., Room 408
Citizens Bldg.
West Palm Beach, Fla. 33401
(305) 833-4495

Florida Rural Legal Services
1900 Havendale Blvd.
Winter Haven, Fla. 33880
(813) 299-7771

IDAHO

Idaho Legal Aid Services
Indian Law Unit
104-1/2 South Capitol Blvd.
P.O. Box 1683
Boise, Idaho 83701
(208) 345-1140

Local Offices

Idaho Legal Aid Services
Indian Law Unit
218 N. 23rd St.
P.O. Box 1433
Coeur D'Alene, Idaho 83814
(208) 667-9559

Idaho Legal Aid Services
Indian Law Unit
1336 F St.
P.O. Box 973
Lewiston, Idaho 83501
(208) 743-1556

Idaho Legal Aid
Indian Law Unit
1247 Yellowstone
P.O. Box 2107
Pocatello, Idaho 83201
(208) 237-6403

KANSAS

Legal Aid Society of Wichita
Douglas Building
104 S. Broadway
Witchita, Kans. 67202
(316) 265-9681

MAINE

Pine Tree Legal Assistance, Inc.
146 Middle St.

Portland, Maine 04101
(207) 774–8211

Local Offices

Pine Tree Legal Assistance, Inc.
39 Green St.
Augusta, Maine 04330
(207) 622–4731

Pine Tree Legal Assistance, Inc.
61 Maine St.
Bangor, Maine 04401
(207) 942–8241

Pine Tree Legal Assistance, Inc.
26 Main St.
P.O. Box 120
Machais, Maine 04654
(207) 255–8656

Pine Tree Legal Assistance, Inc.
277 Lewiston St.
Lewiston, Maine 04240
(207) 784–1558

Pine Tree Legal Assistance, Inc.
Farmworker Unit
277 Lewiston St.
Lewiston, Maine 04240
(207) 784–1550

Pine Tree Legal Assistance, Inc.
1 Second St.
P.O. Box 1207
Presque Isle, Maine 04769
(207) 764–4349

Pine Tree Legal Assistance, Inc.
Legislative Unit
39 Green St.
Augusta, Maine 04330
(207) 623–2971

Native American Rights Fund

178 Middle St.
Portland, Maine 04101
(207) 773-7166

MICHIGAN

Upper Peninsula Legal Services
Main Office
536 Bingham Ave.
Sault Ste. Marie, Mich. 49783
(906) 632-3361

MINNESOTA

Leech Lake Reservation Legal Services
P.O. Box 425
Cass Lake, Minn. 56623
(218) 335-2223

Legal Aid Society of Minneapolis
Main Office
222 Grain Exchange
Minneapolis, Minn. 55415
(612) 332-1441

MONTANA

Montana Legal Services Association
Administration
301 Steamboat Block Bldg.
616 Helena Ave.
Helena, Mont. 59601
(406) 442-9830

NEBRASKA

Lincoln Legal Aid Society
800 Anderson Building
116 N. 12th
Lincoln, Neb. 68508
(402) 348-2161

Legal Aid Society of Omaha
500 S. 18th
Stewart, Neb. 89437
(702) 885-5110

Western Nebraska Legal Services
1724 2nd Ave.

Scotts Bluff, Neb. 69361
(308) 632-4734

NEW MEXICO

Pueblo Legal Services
P.O. Box 638
Old Laguna, N. Mex. 87026
(505) 782-4426

Crownpoint DNA Office
P.O. Box 116
Crownpoint, N. Mex. 87313
(505) 786-5277

Sandoval County Legal Services
520 Camino Del Pueblo
Bernalillo, N. Mex. 87004
(505) 867-2348

Legal Aid Society of Albuquerque
Western Bank Building
505 Marquette Ave. N.W.
Albuquerque, N. Mex. 87102
(505) 243-7871

Northern New Mexico Legal Services
Dragoon Lane
P.O. Box 948
Taos, N. Mex. 87571
(505) 758-2219

Shiprock DNA Office
P.O. Box 967
Shiprock, N. Mex. 87420
(505) 368-4377

Southern New Mexico Legal Services
413 West Griggs St.
Las Cruces, N. Mex. 88001
(505) 526-4451

San Juan County Legal Aid
420 W. Broadway
Farmington, N. Mex. 87401

(505) 325-8886

NEW YORK

Onondaga Neighborhood Legal Services
633 S. Warren St.
Syracuse, N.Y. 13202
(315) 475-3127

Legal Aid Bureau of Buffalo
Walbridge Bldg.
43 Court Street
Buffalo, N.Y. 14202
(716) 853-9555

NORTH CAROLINA

Legal Services of North Carolina
1526 Glenwood Ave.
Raleigh, N.C. 27628
(919) 832-2046

NORTH DAKOTA

North Dakota Legal Services
Box 217
New Town, N.Dak. 58763
(701) 627-4719

OKLAHOMA

Legal Services of Eastern Oklahoma, Inc.
Administrative Offices
23 W. 4th St.
Franklin Bldg., Suite 200
Tulsa, Okla. 74103
(918) 584-3211

Legal Aid of Western Oklahoma, Inc.
Administrative Offices
228 Robert S. Kerr Ave.
980 Court Plaza
Oklahoma City, Okla. 73102
(405) 272-9461

OREGON

Native American Program
Oregon Legal Services Corporation
2328 N.W. Everett St.

Portland, Oreg. 97210
(503) 223-7502

SOUTH DAKOTA

South Dakota Legal Services
P.O. Box 727
Mission, S. Dak. 57555
(605) 856-4444

WASHINGTON

Evergreen Legal Services
Native American Division
520 Smith Tower
506 Second Ave.
Seattle, Wash. 98104
(206) 464-5888

Local Offices

Evergreen Legal Services
Colville Reservation Office
P.O. Box 150
Nespelem, Wash. 98155
(509) 634-4711

Evergreen Legal Services
Lummi Tribal Center
2616 Kwina Rd.
Bellingham, Wash. 98225
(206) 734-8180

Evergreen Legal Services
Muckleshoot Tribal Center
39015 172nd Ave. S.E.
Auburn, Wash. 98002
(206) 939-3311

Evergreen Legal Services
Quinault Indian Nation Office
P.O. Box 1118
Taholah, Wash. 98587
(206) 276-8211

Evergreen Legal Services
Skokomish Tribal Center

Route 5, Box 432
Shelton, Wash. 98584
(206) 877-5101

Evergreen Legal Services
Squaxin Tribal Council
Route 1, Box 257
Shelton, Wash. 98583
(206) 426-9784

WISCONSIN

Legal Action of Wisconsin, Inc.
Central Office
211 W. Kilbourn Ave.
Milwaukee, Wis. 53203
(414) 278-7722

Wisconsin Judicare
408 3rd St.
Wausau, Wis. 54401
(800) 472-1638

UTAH

Mexican Hat DNA Office
P.O. Box 488
Mexican Hat, Utah 84531
(801) 739-4205

Utah Legal Services
352 South Denver
Salt Lake City, Utah 84111
(801) 328-0121

WYOMING

Wind River Legal Services
P.O. Box 247
Fort Washakie, Wyo. 82514
(307) 255-8290

Jurisdictions Covered Under the Voting Rights Act

The Voting Rights Act of 1965, as amended, required the following jurisdictions to provide language assistance to American Indians (including Alaska Natives).

Alaska

Arizona: Apache County, Coconino County, Gila County, Graham County, Navaho County, Pinal County

California: Inyo County

Colorado: Montezuma County

Florida: Glades County

Idaho: Bingham County

Maine: Passamaquoddy, Pleasant Point Indian Reservation (Washington County)

Michigan: Sugar Island Township (Chippewa County)

Minnesota: Beltrami County, Cass County

Mississippi: Neshoba County

Montana: Blaine County, Glacier County, Hill County, Lake County, Roosevelt County, Rosebud County, Valley County

Nebraska: Thurston County

Nevada: Elko County, Mineral County

New Mexico: McKinley County, Rio Arriba County, Sandoval County, Taos County, Valencia County

North Carolina: Hoke County, Jackson County, Robeson County, Swain County

North Dakota: Benson County, Dunn County, McKenzie County, Mountrail County, Rolette County

Oklahoma: Adair County, Baline County, Caddo County, Cherokee County, Choctaw County, Coal County, Craig County, Delaware County, Hughes County, Johnston County, Latimer County, McCurtain County, McIntosh County, Mayes County, Okfuskee County, Okmulgee County Osage County, Ottawa County, Pawnee County, Pushmataha County, Rogers County, Seminole County, Sequoyah County

Oregon: Jefferson County

South Dakota: Bennett County, Charles Mix County, Corson County, Lyman County, Mellette County, Shannon County, Washabaugh County, Tood County

Utah: San Juan County, Uintah County

Washington: Okahogan County

Wisconsin: Nashville Town (Forest County), Oneida Town (Outagamie County), Hayward City (Sawyer County)

Wyoming: Fremont County

Source: Regulations of the Department of Justice printed at 28 C.F.R. 385 *et seq.* (1978).
NOTE: This list is subject to change.